

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States District Court  
Southern District of Texas  
FILED

APR 22 2016

David J. Bradley, Clerk of Court

MICHAEL REEVES,  
TDCJ # 559661,  
plaintiff,

V. CIVIL ACTIONS NO. 4:15-cv-02170  
JOSEPH C. WILLIAMS  
Defendant.

Plaintiff's REBUTTAL TO Defendant

Williams' ANSWER AND CONCURRENCE

ON JURY DEMAND

Plaintiff Michael REEVES files his REBUTTAL, addressing Defendant Williams' ANSWER AND CONCURRENCE ON JURY DEMAND. Plaintiff will address each answer in the order it was presented.

(1) Defendant Williams' ANSWER:

"Defendant Williams denies each and every allegation contained in plaintiff's complaint."

Plaintiff's REBUTTAL:

Defendant Williams will be committing perjury

(C) TO Deny "EACH AND EVERY ALLEGATION contained in plaintiff's complaint" BECAUSE THERE EXIST UNDISPUTABLE EVIDENCE (TDCJ DISCIPLINARY REPORT # 20150228764) written by <sup>Defendant</sup> ~~plaintiff~~ williams admitting that he "placed in HAND RESTRAINTS" plaintiff REEVES and "ESCORTED OUT OF THE GYM" plaintiff Reeves. By policy, it is mandatory that A OFFENDER in HAND RESTRAINTS AND IN ESCORT, THE ESCORTING OFFICER SHALL GRAB THE ARM AND hold it DURING THE ESCORT. IT WAS THEN THAT plaintiff Reeves was subjected to AN EXCESSIVE USE OF FORCE AT THE HAND OF DEFENDANT williams, who acted under COLOR OF STATE LAW because he (defendant) CARRIES A BRIDGE OF AUTHORITY FROM THE STATE. (FOR MORE INFO, See.. plaintiff's "motions TO CORRECT THE RECORD" FILED WITH THIS COURT). DEFENDANT williams WILL BE COMMITTING PERJURY TO DENY "EACH AND EVERY ALLEGATION" IN THAT IN ITSELF.

(2) Defendant williams' ANSWER:

"Defendant asserts his entitlement to qualified, OFFICIAL, SOVEREIGN, AND ELEVENTH AMENDMENT IMMUNITY AS THEY APPLY".

Plaintiff's REBUTTAL:

(C) To be protected by qualified immunity, defendant williams had to show either that it was objectively reasonable to believe his actions did not violate the law, or that the law was not clearly established at the time of the violation. See

(1) Oliveira v. Mayer, 23 F.3d 642, 648 (2d Cir. 1994) Remanding based on factual dispute related to whether a responsible officer could believe that their conduct was lawful. In defendant Williams' answer, he failed to show either, therefore he is not protected by qualified immunity. Further, defendant Williams bundled his alleged "entitlement of qualified, official, sovereign, and Eleventh Amendment immunity as they apply" together by the word "and" instead of being separated by the word "or" therefore all of the alleged "entitlement" fail by domino effect. Defendant Williams, a state employee, is being sued in his individual capacity for the physical pain and suffering that he (plaintiff) has already endured as a result of the wrongful conduct at the hand of defendant Williams.

(3) Defendant Williams' answer:

"Defendant also asserts the affirmative defenses of statute of limitations and res judicata/collateral estoppel."

Plaintiff's Rebuttal:

Plaintiff's civil action no. 4:15-cv-02170 met the statute of limitations and res judicata/collateral estoppel. Does not apply in this civil action because the claims are first time claims so there is no re-litigation issue. At hand, there is no previous cases between the same parties. Defendant Williams failed to show previous litigation by way of 42 U.S.C § 1983 or these issues as stated in this action.

(4) Defendant Williams' answer:

"Defendant states the failure to fully and

Timely Exhaust Administrative Remedies is a bar to a plaintiff filing suit in the federal court pursuant to 42 U.S.C. Section 1997(e)."

Plaintiff's Rebuttal:

Plaintiff REEVES Did in fact Exhaust (use) All Administrative procedures Available to him Before Bringing This Action. This is Because, Under The PLRA, I had To EXHAUST ALL ADMINISTRATIVE Remedies Such AS The "PRISONER GRIEVANCE PROCEDURES". Plaintiff REEVES Sent The STEP 2 grievance along with his § 1983 COMPLAINT FORM AS PROOF OF EXHAUSTION, AND BOTH DOCUMENTS SHOULD BE IN THE HANDS OF THIS COURT. ALL Remedies were Timely EXHAUSTED WITHIN THE ADMINISTRATION. Defendant WILLIAMS' HAS FAILED TO SHOW OTHERWISE.

Plaintiff CONCURS WITH DEFENDANT'S DEMANDS ON A TRIAL BY JURY.

4/20/2016  
Date

Respectfully Submitted,  
Michael Reeves

Plaintiff

PRO SE'

Prayer

Plaintiff ASKS THE COURT TO GRANT ANY AND ALL RELIEF IN HIS FAVOR AND THAT HE BE REAPPOINTED COUNSEL AND DEFENDANT BE CHARGED WITH THE ATTORNEY'S FEES AND NOT PLAINTIFF.

## Declaration

I, Michael Reeves, plaintiff, declare under  
the penalty of perjury hereby state; to my  
believe, the foregoing is TRUE and correct.

4-20-2016

DRC

Michael Reeves

plaintiff pro-se

## Certificate of Service

I, Michael Reeves, plaintiff, hereby declare  
that a copy of the foregoing was mailed,  
postage prepaid to:

BRIAN M. WEBB

ASSISTANT ATTORNEY GENERAL OF TX

P.O. Box 12548

AUSTIN, TX 78711-2548

This 4 - 20 - 2016.

\* ATTORNEY FOR DEFENDANT.

Michael Reeves

plaintiff pro-se

**MICHAEL REEVES # 559611  
ESTELLE UNIT  
ABX FM 3478  
HUNTSVILLE, TX 77345-  
United States District Court  
Southern District of Texas**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
POST OFFICE BOX 61010  
HOUSTON, TEXAS 77208

